

SENATE BILL NO. 183

INTRODUCED BY BALLYEAT, WARBURTON, JONES, MENDENHALL, BLASDEL, ANKNEY, BUTCHER,
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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE WOLF POLICY; CREATING THE MONTANA
WOLF RECOVERY ACT; PROVIDING LEGISLATIVE FINDINGS; ASSERTING STATE RIGHTS AND
CHALLENGING FEDERAL AUTHORITY; VOIDING THE MONTANA WOLF CONSERVATION AND
MANAGEMENT PLAN; VOIDING THE COOPERATIVE WOLF MANAGEMENT AGREEMENT; ESTABLISHING
CONDITIONS FOR FUTURE MANAGEMENT PLANS AND AGREEMENTS; ALLOWING LETHAL ACTION
AGAINST WOLVES; DEFINING ADDITIONAL DUTIES FOR THE LEGISLATIVE AUDITOR AND ATTORNEY
GENERAL; ESTABLISHING LIABILITY AND PENALTIES FOR INJURY OR DEATH OF A HUMAN BECAUSE
OF A WOLF ATTACK; AMENDING SECTIONS 2-15-3110, 2-15-3113, 87-3-102, 87-5-103, AND 87-5-107, MCA,
AND SECTION 8, CHAPTER 415, LAWS OF 2007; REPEALING SECTION 87-5-131, MCA; AND PROVIDING
EFFECTIVE DATES ~~AND A TERMINATION DATE.~~"

WHEREAS, the gray wolf in the continental United States has been protected under the federal
Endangered Species Act, notwithstanding plentiful numbers of wolves in Alaska and Canada; and

WHEREAS, because of that protection, gray wolves have been reintroduced in Montana and have
become reestablished in this state; and

WHEREAS, the current wolf population in Montana is estimated to be as many as 500 or more wolves;
and

WHEREAS, unchecked predation by wolves will reduce hunting opportunities in Montana, impacting the
longstanding heritage and culture of hunting in this state; and

WHEREAS, wolf predation is having an unacceptable impact on livestock production in Montana; and

WHEREAS, these negative impacts will have a profound economic consequence for people and
communities in Montana.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1
2 **NEW SECTION.** **Section 1. Short title.** [Sections 1 through 17] may be cited as the "Montana Wolf
3 Recovery Act".

4
5 **NEW SECTION.** **Section 2. Legislative findings.** The legislature finds that:

6 (1) the United States has not dealt with Montana in good faith concerning the reintroduction of wolves
7 in Montana;

8 (2) multiple promises by federal officials regarding deadlines for wolf delisting and the shift of full wolf
9 management and control to Montana have passed with no effective delisting or shifting of full management
10 authority;

11 (3) wolves have had and are having an unacceptable negative impact on game herds, hunting
12 opportunities, livestock production, the health and safety of people engaged in outdoor work and recreation in
13 Montana, and the Montana economy;

14 (4) (a) the United States lacks authority to impose wolves on Montana and to enforce protected status
15 for wolves in Montana;

16 (b) there is no commerce in wolves among the states, that wild wolves are not bought or sold across
17 state lines, that wild wolves are not transported across state lines as commercial items, and that there is no
18 genuine commercial connection for wild wolves in interstate commerce sufficient to justify authority for congress
19 to authorize imposition of wolves on Montana; and

20 (c) Article VI, clause 2, of the United States constitution, known as the supremacy clause, and Article
21 I, section 8, clause 3, of the United States constitution, known as the commerce clause, have been amended by
22 the states by the 9th and 10th amendments to the United States constitution. It is a principle of jurisprudence that
23 if conflict exists between provisions of a coequal body of law, the most recently enacted provision prevails as the
24 most recent expression of the enacting authority.

25 (5) the United States is responsible for injuries caused by federally released wolves in Montana,
26 including but not limited to the loss of game animals, livestock, or pets, other injuries to animals, injuries to
27 persons working or recreating in the state, and economic injuries to the people of the state.

28
29 **NEW SECTION.** **Section 3. Purpose.** The purpose of [sections 1 through 17] is to:

30 (1) prevent the decline of wild game animal populations in Montana because of wolf predation and

1 preserve the heritage of harvesting those game animals for Montanans pursuant to Article IX, section 7, of the
2 Montana constitution;

3 (2) protect the stockgrowers of Montana from economic loss because of wolf predation;

4 (3) provide for the health and safety of people working outdoors or engaged in outdoor recreation; and

5 (4) assert the rights of Montana pursuant to the 9th and 10th amendments to the United States
6 constitution and Article I of the Montana constitution.

7
8 **NEW SECTION. Section 4. Authorities asserted and challenged.** (1) Montana asserts the following
9 authorities:

10 (a) rights retained by the people in the 9th amendment to the United States constitution;

11 (b) powers reserved to the states in the 10th amendment to the United States constitution; and

12 (c) those authorities reserved in Article I of the Montana constitution.

13 (2) Montana challenges the authority of the United States and of congress under the United States
14 constitution, including Article I, section 8, clause 3, known as the commerce clause, to:

15 (a) impose wolves on the people and lands of Montana;

16 (b) protect wolves;

17 (c) prevent, prohibit, or suppress any state management of wolves; and

18 (d) manage wildlife in general within the borders of Montana, including on private and state lands and
19 public lands managed by the United States.

20
21 **NEW SECTION. Section 5. Montana wolf conservation and management plan -- void.** Any gray
22 wolf conservation or management plan implemented by the state and in existence on [the effective date of this
23 section] is void.

24
25 **NEW SECTION. Section 6. Cooperative wolf management agreement -- void.** (1) Any cooperative
26 agreement existing on [the effective date of this section] between the state or any agency of the state and the
27 United States or any agency of the United States for the conservation and management of the gray wolf in
28 Montana is void.

29 (2) On passage and approval of [sections 1 through 17], the secretary of state shall send copies of
30 [sections 1 through 17] indicating the effective date to the secretary of the United States department of the

interior, the director of the United States fish and wildlife service, the secretary of the United States department of agriculture, and the director of the department.

NEW SECTION. Section 7. Future cooperative agreement -- certification of compliance. (1) Any future cooperative agreement between the state or any agency of the state and the United States or any agency of the United States for the conservation and management of the gray wolf in Montana is prohibited unless the conditions of the Montana wolf management policy expressed in [sections 1 through 17] are met.

(2) Before any future cooperative agreement may be entered into, the following officials shall certify in joint or separate written statements that the conditions of the Montana wolf management policy expressed in [sections 1 through 17] have been met:

- (a) the president of the Montana senate;
- (b) the speaker of the Montana house of representatives;
- (c) the presiding officer of the senate fish and game committee;
- (d) the presiding officer of the house fish, wildlife, and parks committee;
- ~~(e) the presiding officer of the legislative audit committee;~~
- ~~(f)~~(E) the state veterinarian;
- ~~(g)~~(F) the director of the department; and
- ~~(h)~~(G) the director of the department of livestock.

(3) The signed, written statements required in subsection (2) must be sent to the secretary of state who shall confirm that all of the officials listed in subsection (2) are in agreement that compliance with [sections 1 through 17] has been achieved.

(4) Compliance is certified and an agreement may be entered into only if all officials listed in subsection (2) submit their written notice to the secretary of state within the same 30-day period.

(5) Officials listed in subsection (2) may withdraw their certification of compliance by sending written notice to the secretary of state at any time during the 30-day period established in subsection (4). A cooperative agreement may not be entered into if any official withdraws certification during that period.

(6) Upon receipt of certification from all officials listed in subsection (2) and after the 30-day period in subsection (4) has expired, the secretary of state shall within 7 days:

- (a) confirm that certification of compliance with [sections 1 through 17] is complete; and
- (b) publicly post and send written notice to the governor and code commissioner, including copies of the

1 written certification.

2 (7) (a) Certification of compliance with [sections 1 through 17] must be withdrawn if, at any time, two
3 officials listed in subsection (2) send written notice of their withdrawal of certification to the secretary of state. If
4 this occurs, any cooperative agreement in effect upon receipt is void and the presence of wolves in Montana is
5 considered to be noncompliant with the Montana wolf policy expressed in [sections 1 through 17].

6 (b) The secretary of state shall send written notice of noncompliance to the governor, the code
7 commissioner, and the officials listed in subsection (2).

8
9 **NEW SECTION. Section 8. Future cooperative agreement and management plan -- conditions.**

10 The following conditions must be met before the state or any agency of the state may enter into any gray wolf
11 cooperative conservation and management agreement with the United States, any agency of the United States,
12 or any other entity or adopt any gray wolf management plan:

13 (1) The United States agrees in writing to accept all of the following principles:

14 (a) achieving a natural balance between nonhuman predators and prey is not an acceptable goal or
15 necessarily a desirable outcome;

16 (b) introduction or enhancement of predator populations may not be allowed to conflict with the heritage
17 of and opportunity for hunting, the safety of people engaged in outdoor recreation or work, and the successful
18 livelihood of people operating businesses on land where predators range;

19 (c) all persons have a natural and undeniable right to defend themselves and their property from
20 immediate or apparent injury. This right of self-defense of person and property applies to defense from animals.

21 (d) active predator control to protect game herds is engaging in active wildlife management according
22 to the needs and values of the citizens of the state. These wildlife management activities may not be impeded
23 by federal agencies, federal regulations, or federal personnel.

24 (e) the state is eligible to recoup damages from the United States for each game animal taken by wolves
25 in an amount equal to the values established in 87-1-111; and

26 (f) the United States court of federal claims is the proper venue for damage claims arising under
27 subsection (1)(e).

28 (2) The United States agrees in writing to unfettered state management of wolves with no further
29 assertion of federal authority.

30 (3) The United States accepts in writing that "breeding pair" is a term or concept that may not be applied

1 to quantification of gray wolf recovery or maintenance.

2 (4) The United States agrees in writing that a total of 150 wolves present in Montana is sufficient to
3 maintain a viable wolf population.

4 (5) The United States accepts the implementation of 87-1-217.

5
6 **NEW SECTION. Section 9. Wolves unprotected until compliance.** Until all of the provisions of the
7 Montana wolf policy expressed in [sections 1 through 17] are met, wolves are unprotected in Montana wherever
8 they are found on state or private land.

9
10 **NEW SECTION. Section 10. Wolf management policy -- compliance criteria.** To be in compliance
11 with the Montana wolf management policy expressed in [sections 1 through 17], the wolf presence in Montana
12 must meet the following criteria:

13 (1) The gray wolf must be removed from the United States' list of endangered or threatened wildlife and
14 the state list of endangered species.

15 (2) The statewide average for resident big game hunter success rates has not declined in the 3 most
16 recent calendar years below the average of the 10 most recent calendar years.

17 (3) Wolf populations are at or below 150% of the target population of 150 wolves.

18 (4) Livestock predation by wolves, as determined by the county commissioners of any county in which
19 wolf predation is alleged to have occurred, has not increased in the average of the 3 most recent complete
20 calendar years above the average for the most recent 10 calendar years.

21 (5) Wolves present in the state are not afflicted with, carrying, or transmitting infectious diseases or
22 parasites transmissible to humans or domestic or wild animals as determined by the state veterinarian.

23
24 **NEW SECTION. Section 11. Citation or arrest for wolf taking prohibited during noncompliance.**

25 (1) Issuing a citation or arresting a person for taking a wolf on state or private property or possessing a wolf
26 carcass or any parts of a wolf taken on state or private property is prohibited during any period that the presence
27 of wolves in Montana is not in compliance with the Montana wolf management policy expressed in [sections 1
28 through 17].

29 (2) Any person found to have violated this section shall be fined not to exceed \$500 or be imprisoned
30 in the county jail for any term not to exceed 6 months, or both. Any person who violates this section may also be

1 prosecuted pursuant to 45-5-203 or 45-7-401.

2
3 **NEW SECTION. Section 12. State to provide defense.** The department OF JUSTICE shall reimburse
4 reasonable costs and attorney fees to any Montana resident accused by the United States of illegally taking a
5 wolf on state or private property if the taking occurs at a time when wolf presence in Montana is not in compliance
6 with the Montana wolf management policy expressed in [sections 1 through 17].

7
8 **NEW SECTION. Section 13. Use of state resources.** (1) At any time that the wolf presence in
9 Montana is not in compliance with the provisions of the Montana wolf management policy expressed in [sections
10 1 through 17], the department may not expend any state resources, including money and time, implementing or
11 enforcing any wolf policies of the United States.

12 (2) The department may expend state resources:

13 (a) to implement 87-1-217; and

14 (b) specifically appropriated for the purpose of documenting and quantifying compliance with [sections
15 8 and 10].

16 (3) The department may expend any federal money specifically earmarked and appropriated for wolf
17 control in Montana. Any expenditure of this money must be publicly posted on a quarterly basis in itemized detail
18 pursuant to 17-2-103(3).

19
20 **NEW SECTION. Section 14. Role of legislative auditor.** Before any numbers used to determine
21 compliance with the Montana wolf management policy expressed in [sections 1 through 17] may be accepted,
22 including but not limited to numbers of wolves, wolf packs, and game animals in Montana or regions of Montana,
23 hunter success numbers, and numbers of livestock animals killed or injured by wolves, the presiding officer of
24 the legislative audit committee shall receive a report from the legislative auditor determining whether THE
25 METHODOLOGIES AND PROCEDURES USED BY STATE AGENCIES TO DETERMINE those numbers are ~~accurate within a~~
26 ~~confidence interval of 10%. The report of the legislative auditor is considered conclusive, authoritative, and not~~
27 ~~subject to appeal or review by another authority, although the auditor's findings may be adjusted or changed as~~
28 ~~seen necessary by the auditor~~ REASONABLE.

29
30 **NEW SECTION. Section 15. Duty of attorney general.** (1) The attorney general shall file and pursue

claims against the United States for damages resulting from wolf predation, including:

(a) economic losses;

(b) loss of big game animals, in accordance with [section 8(1)(e)];

(c) loss of livestock and pets; and

(d) personal injury inflicted by a wolf on any person in Montana.

(2) Claims must be filed in the United States court of federal claims.

(3) Claims for reimbursement must include financial compensation for all damages incurred since January 11, 2001.

(4) If the attorney general fails to file and pursue a claim within 90 days of [the effective date of this section], any resident or organization of Montana may file a claim on behalf of the citizens of Montana. In that event, the reasonable costs and attorney fees incurred become an absolute claim against the department OF JUSTICE and may be billed to and must be paid by the state on a quarterly basis. If costs and attorney fees are recovered through litigation, the state must be reimbursed for amounts paid, up to the amounts recovered.

NEW SECTION. Section 16. Injury or death of a human -- liability. Persons responsible for inflicting wolves on Montana or preventing state management of wolves are civilly liable, pursuant to Title 27, for any damages related to the serious physical injury or death of a human as the result of an attack by a wolf during any period of noncompliance with the provisions of [sections 1 through 17]. This includes any individual or group that is:

(1) party to a lawsuit with the purpose of preventing or delaying the implementation of state management of wolves during the pendency of the lawsuit; or

(2) found to have knowingly provided false or flawed data or is found to have been grossly negligent in providing data regarding wolf numbers, wolf distribution, wolf impacts on wildlife or livestock, projected wolf impacts, or similar data. Any individual or group held liable under this subsection may also be prosecuted pursuant to 45-7-202.

NEW SECTION. Section 17. Injury or death of a human -- lethal action authorized. (1) If any person in Montana is killed or suffers serious physical injury as the result of an attack by a wolf during any period of noncompliance with the provisions of [sections 1 through 17], as determined by the county commissioners of the county where the alleged attack occurred, the wolf or wolves involved in the attack are considered likely to be

1 infected with rabies and to infect other animals and humans.

2 (2) (a) Subject to subsection (1), any person may kill any wolf by any means within 100 miles of the
3 alleged attack.

4 (b) The killing of any wolf pursuant to this subsection (2) must be reported to the state veterinarian within
5 12 hours. That wolf must be tested for rabies and other diseases. A complete necropsy report must be publicly
6 posted as soon as it becomes available.

7 (c) The provisions of this subsection (2) remain in effect until the county commissioners determine that
8 all surviving wolves involved in the attack are free of rabies.

9
10 **Section 18.** Section 2-15-3110, MCA, is amended to read:

11 **"2-15-3110. Livestock loss reduction and mitigation board -- purpose, membership, and**
12 **qualifications.** (1) There is a livestock loss reduction and mitigation board. The purpose of the board is to
13 administer the programs ~~called for in the Montana gray wolf management plan and~~ established in 2-15-3111
14 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses
15 caused by wolves to livestock producers and to reimburse livestock producers for livestock losses from wolf
16 predation.

17 (2) The board consists of seven members, appointed by the governor, as follows:

18 (a) three members from a list of names recommended by the board of livestock;

19 (b) three members from a list of names recommended by the fish, wildlife, and parks commission; and

20 (c) one member of the general public.

21 (3) Each board member must have knowledge of or have experience in at least one of the following:

22 (a) the raising of livestock in Montana;

23 (b) livestock marketing, valuations, sales, or breeding associations;

24 (c) the interaction of wolves with livestock and livestock mortality caused by wolves;

25 (d) wildlife conservation;

26 (e) administration; and

27 (f) fundraising.

28 (4) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the
29 provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

30 (5) The board is allocated to the department of livestock for administrative purposes only as provided

1 in 2-15-121.

2 (6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114, 81-1-110,
3 and 81-1-111."

4
5 **Section 19.** Section 2-15-3113, MCA, is amended to read:

6 **"2-15-3113. Additional powers and duties of livestock loss reduction and mitigation board. (1)**

7 The livestock loss reduction and mitigation board shall:

8 (a) process claims;

9 (b) seek information necessary to ensure that claim documentation is complete;

10 (c) provide payments authorized by the board for confirmed and probable livestock losses, along with
11 a written explanation of payment;

12 (d) submit monthly and annual reports to the board [of livestock] summarizing claims and expenditures
13 and the results of action taken on claims and maintain files of all claims received, including supporting
14 documentation;

15 (e) provide information to the board [of livestock] regarding appealed claims and implement any decision
16 by the board;

17 (f) prepare the annual budget for the board; and

18 (g) provide proper documentation of staff time and expenditures.

19 (2) The livestock loss reduction and mitigation board may enter into an agreement with any Montana
20 tribe, if the tribe has adopted a wolf management plan for reservation lands that is consistent with the ~~state wolf~~
21 ~~management plan~~ Montana wolf management policy expressed in [sections 1 through 17], to provide that tribal
22 lands within reservation boundaries are eligible for mitigation grants pursuant to 2-15-3111 and that livestock
23 losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant to
24 2-15-3112.

25 (3) The livestock loss reduction and mitigation board shall:

26 (a) coordinate and share information with state, federal, and tribal officials, livestock producers,
27 nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves;

28 (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses
29 caused by wolves;

30 (c) perform or contract for the performance of periodic program audits and reviews of program

expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction grants and reimbursement payments;

(d) adjudicate appeals of claims;

(e) investigate alternative or enhanced funding sources, including possible agreements with public entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in place;

(f) meet as necessary to conduct business; and

(g) report annually to the governor, the legislature, members of the Montana congressional delegation, the board of livestock, the fish, wildlife, and parks commission, and the public regarding results of the programs established in 2-15-3111 through 2-15-3113."

Section 20. Section 87-3-102, MCA, is amended to read:

"87-3-102. Waste of fish or game. (1) A person who is responsible for the death of a mountain lion ~~for~~ ~~wolf, except as provided in 87-3-130,~~ commits the offense of waste of game if the person abandons the head or hide in the field.

(2) A person who is responsible for the death of a grizzly bear commits the offense of waste of game if the person abandons the head or hide or any parts required by department or commission regulation for scientific purposes. All parts of a grizzly bear required by department or commission regulation for scientific purposes must be delivered to an officer or employee of the department for inspection as soon as possible after removal, and the department shall return to the licensee any bone structure and skull within 1 year upon written request. The hide must be returned immediately.

(3) A person responsible for the death of any game animal, except a mountain lion ~~for wolf~~, commits the offense of waste of game if the person purposely or knowingly:

(a) detaches or removes from the carcass only the head, hide, antlers, tusks, or teeth or any or all of these parts;

(b) wastes any part of any game animal, game bird, or game fish suitable for food by transporting, hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

(c) abandons in the field the carcass of any game animal or any portion of the carcass suitable for food.

(4) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable for food commits the offense of waste of game if the person purposely or knowingly:

(a) transports, stores, or hangs the animal, bird, or fish in a manner that renders it unfit for human consumption; or

(b) disposes of or abandons any portion of a game animal, game bird, or game fish that is suitable for food.

(5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected with trichinosis is not considered to be suitable for food.

(6) A person convicted of waste of game may be fined not less than \$50 or more than \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap, the department shall notify the person of the forfeiture and loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days of notification. ~~(Bracketed language effective on occurrence of contingency--sec. 8(2), Ch. 415, L. 2007.)~~"

Section 21. Section 87-5-103, MCA, is amended to read:

"87-5-103. Legislative intent, findings, and policy. (1) The legislature, mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted The Nongame and Endangered Species Conservation Act. It is the legislature's intent that the requirements of this part provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

(2) The legislature finds and declares all of the following:

(a) that it is the policy of this state to manage certain nongame wildlife for human enjoyment, for scientific purposes, and to ensure their perpetuation as members of ecosystems;

(b) that, except for the gray wolf, species or subspecies of wildlife indigenous to this state that may be found to be endangered within the state should be protected in order to maintain and, to the extent possible, enhance their numbers;

(c) that, except for the gray wolf, the state should assist in the protection of species or subspecies of wildlife that are considered to be endangered elsewhere by prohibiting the taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment within this state of species or subspecies of wildlife

1 unless those actions will assist in preserving or propagating the species or subspecies."

2
3 **Section 22.** Section 87-5-107, MCA, is amended to read:

4 **"87-5-107. List of endangered species.** (1) (a) On the basis of investigations on nongame wildlife
5 provided for in 87-5-104 and other available scientific and commercial data and after consultation with other state
6 wildlife agencies, appropriate federal agencies, and other interested persons and organizations, the department
7 shall recommend to the legislature a list of those species and subspecies of wildlife indigenous to the state,
8 except for the gray wolf, that are determined to be endangered within this state, giving their common and scientific
9 names by species and subspecies.

10 (b) Except for the gray wolf, ~~the~~ The department may propose legislation to specifically include any
11 species or subspecies of fish and wildlife appearing on the United States' list of endangered native fish and
12 wildlife (part 17 of Title 50 of the Code of Federal Regulations, appendix D) as it appears on July 1, 1973, as well
13 as any species or subspecies of fish and wildlife appearing on the United States' list of endangered foreign fish
14 and wildlife (part 17 of Title 50 of the Code of Federal Regulations, appendix A), as that list may be modified.

15 (2) (a) The department shall conduct a review of the state list of endangered species every 2 years. The
16 department may propose specific legislation to amend the list by additions that are considered appropriate and
17 at times that are considered appropriate.

18 (b) Whenever a species or subspecies is removed from the United States' list of endangered native fish
19 and wildlife (part 17 of Title 50 of the Code of Federal Regulations, appendix D) and that species or subspecies
20 is also on the state list of endangered species in ARM 12.5.201, the department shall amend the state list to
21 remove that species or subspecies. The removal of a species or subspecies from the state list pursuant to this
22 subsection (2)(b) does not require approval by the legislature.

23 (3) Except as otherwise provided in this part, it is unlawful for any person to take, possess, transport,
24 export, sell, or offer for sale and for any common or contract carrier knowingly to transport or receive for shipment
25 any species or subspecies of wildlife, except the gray wolf, appearing on any of the following lists:

26 (a) the list of wildlife indigenous to the state determined to be endangered within the state pursuant to
27 subsection (1);

28 (b) any species or subspecies of fish and wildlife included by the department and appearing on the
29 United States' list of endangered native fish and wildlife (part 17 of Title 50, Code of Federal Regulations,
30 appendix D) as it appears on July 1, 1973; and the United States' list of endangered foreign fish and wildlife (part

17 of Title 50, Code of Federal Regulations, appendix A), as that list may be modified.

(4) Except for the gray wolf, any Any species or subspecies of fish and wildlife appearing on any of the enumerated lists that is brought into the state from another state or from a point outside the territorial limits of the United States and that is transported across the state destined for a point beyond the state may be brought into the state and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(5) If the United States' list of endangered native fish and wildlife is modified by additions, other than for the gray wolf, the modifications, whether or not involving species or subspecies indigenous to the state, may be accepted as binding under subsections (3) and (4) if, after the type of scientific determination described in subsection (1), the department proposes and the legislature accepts the modification for the state."

NEW SECTION. Section 23. Delisting of gray wolf -- management. (1) When the United States fish and wildlife service removes the Northern Rocky Mountain or gray wolf from the United States' list of endangered or threatened wildlife and the department removes the wolf from the state list of endangered species pursuant to [section 10(1)] and when all other conditions of the Montana wolf management policy expressed in [sections 1 through 17] are met, the department shall manage the wolf as a species in need of management. The commission shall declare the wolf a big game animal, a furbearer, or both and may regulate the taking of a wolf as a big game animal or furbearer.

(2) The department, or the department of livestock, pursuant to 81-7-102 and 81-7-103, may control wolves for the protection and safeguarding of livestock if the control action is consistent with a wolf management plan approved by both the department and the department of livestock.

Section 24. Section 8, Chapter 415, Laws of 2007, is amended to read:

"Section 8. Effective dates -- contingencies. (1) Except as provided in subsections (2) and (3), [this act] is effective on passage and approval.

(2) [Sections 1 through 3; and 5, and 6] are effective upon notification by the U.S. fish and wildlife service to the department of fish, wildlife, and parks that the wolf has been formally removed from the federal threatened or endangered species list and upon removal of the wolf from the state endangered species list by the department of fish, wildlife, and parks.

(3) [Section 4] is effective upon notification by the U.S. fish and wildlife service to the department of fish,

wildlife, and parks that the grizzly bear has been formally removed from the federal threatened or endangered species list."

NEW SECTION. **Section 25. Repealer.** Section 87-5-131, MCA, is repealed.

NEW SECTION. **Section 26. Codification instruction.** [Sections 1 through 17 and 23] are intended to be codified as an integral part of Title 87, chapter 5, and the provisions of Title 87, chapter 5, apply to [sections 1 through 17 and 23].

NEW SECTION. **Section 27. Effective dates -- contingency.** (1) Except as provided in subsection (2), [this act] is effective:

(A) on passage and approval: IF THE GRAY WOLF IN MONTANA IS ON THE FEDERAL ENDANGERED SPECIES LIST AND A DECISION TO DELIST THE GRAY WOLF IN MONTANA HAS NOT BEEN PUBLISHED IN THE FEDERAL REGISTER SO THAT IT WILL BECOME EFFECTIVE WITHIN 30 DAYS; OR

(B) UPON THE ISSUANCE OF A COURT ORDER THAT RESULTS IN THE GRAY WOLF IN MONTANA REMAINING ON OR BEING PLACED ON THE FEDERAL ENDANGERED SPECIES LIST. IF THIS ACTION OCCURS, THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS SHALL NOTIFY THE CODE COMMISSIONER ON THE DATE THAT THE ACTION OCCURRED.

(2) If the conditions of [sections 1 through 17] are met and written notification of certification of compliance is received by the code commissioner from the secretary of state pursuant to [section 7(6)], [section 23] is effective on the date that notification is received.

NEW SECTION. **Section 28. Contingent termination -- ~~contingent suspension~~.** (1) Subject to subsection (2), if the conditions of [sections 1 through 17] are met and written notification of certification of compliance is received by the code commissioner from the secretary of state pursuant to [section 7(6)], [section 20], amending 87-3-102, ~~terminates~~ IS SUSPENDED on the date of the written notice.

(2) If the conditions of [section 7(7)] occur, subsection (1) or (3) of this section is void.

(3) If after the conditions in subsection (2) of this section are met, the conditions in [section 7(6)] occur and written notification is again received, subsection (2) of this section is void.

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